on July 22, 2005. A copy of the signed return receipt is attached hereto as Exhibit D.

8. On July 29, 2005, ICI, through Mr. Catalano, filed an action in the Superior Court of California for the County of San Francisco. A copy of ICI's Complaint, which is almost identical in substance to the Complaint filed by MH in New Jersey, is attached hereto as Exhibit E.

9. On August 16, 2005, ICI removed the New Jersey action instituted by MH to the United States District Court for the District of New Jersey. A copy of ICI's removal papers are attached hereto as Exhibit F.

10. Shortly thereafter, on August 19, 2005, ICI filed a motion to dismiss the New Jersey federal court action on the grounds that such court does not have personal jurisdiction over ICI, or to transfer the matter pursuant to 28 U.S.C. § 1404 or § 1406 on the grounds that venue is more appropriately laid in the United States District Court for the Northern District of California. ICI's motion before the United States District Court for the District of New Jersey is presently returnable on September 26, 2005.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at on September 6, 2005.

MARK E. DUCKSTEIN

SHARTSIS FRIESE LLP
ONE MARITIME PLAZA
EIGHTEENTH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3598

Dockets.Justia.com